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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,138	02/08/2002	Megan N. Schlegel	0112300-742	3115

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CHICAGO, IL 60690

EXAMINER
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WEBER, CHRISTOPHER STEVEN

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/071,138

Applicant(s)

SCHLEGEL ET AL.

Examiner

Christopher S. Weber

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/16/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to applicant's amendment filed on February 16<sup>th</sup>, 2006. Applicant amends claims 1, 5, 17, 27, 33, 40, 43, 45, 46, 47, 49, 54, 61 and 65, and responds to claim rejections. Claims 1-71 are pending.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 71 recites the limitation "the symbol" in claim 71. There is insufficient antecedent basis for this limitation in the claim. Independent claim 65 and dependent claim 70 both teach the use of selectable numbers whereas claim 71 refers to the selectable indicia as symbols. For purposes of examination "the symbols" of claim 71 line 2 and "symbols" of claim 71 line 4 will herein be interpreted as "the numbers" and "numbers" respectively. Correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Vancura 6,988,732 in view of "The Price is Right" pricing game "Bullseye 1".

6. Regarding at least claim 1, 6, 7, 17, 20, 27, 29, 30, 33, 35, 40, 43, 45, 47, 49, 50, 52, 54-56, 58, 61, 62, 65, 67, and 68. Vancura '732 teaches a primary game operable by a wager, Col 3 Lines 24-26; a display device, Fig 1 Item 120; a processor which communicates with said display device, Fig 1 Item 120; a secondary game, Col 4 Lines 48-51; a target set of symbols or numbers with a target value, Fig 1 Item 113; an award based on target, Col 12 Lines 49-57; predetermined picks, Col 4 Lines 4-7; additional value with remaining picks, Col 10 Lines 4-7; random designation of target symbol, Col 18 Lines 55-60 and Col 19 Lines 14-15; award for selecting all of said target symbols, Col 19 Lines 4-8;

pl 7. Regarding at least claims 2, <sup>3 & 34</sup> ~~and 3~~, Vancura '732 teaches both physical and/or touchscreen buttons to input selection, Col 2 Lines 8, Col 11 Lines 4-12 & 45-49, Col 20 Lines 12-15.

8. Regarding at least claims 8 and 9, Vancura '732 teaches that the award is equal to the value of the target, Col 12 Lines 49-57.

9. Regarding at least claims 10-14, 21-24, 27, 28, 40, 43-48, and 66, Vancura '732 teaches a plurality of target sets; award based on symbols selected; combining awards,

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awards based on order, awards equals the value of the said symbols from said sets, Col 15 Lines 45-51.

10. Regarding at least claims 15, 16, 25, 26, 36-38, 70, and 71, Vancura '732 teaches probability of being associated the target and different probabilities. In the lines provided, the probability will initially be equal and the probability will change as the database changes. Col 11 Lines 14-39.

11. Regarding at least claim 32, Vancura '732 teaches an award for obtaining all of said target symbols, Col 19 Lines 4-13.

12. Regarding at least claims 41, 42, 59 and 60, Vancura '732 teaches a non-credit value that could consist of a free turn (spin or game), Col 6 Lines 64-71 and Col 7 Line 1.

13. Regarding at least claim 51 and 53, Vancura '732 teaches at least one additional bonus game, Col 18 Lines 55-67.

14. Regarding at least claims 63 and 64, Vancura '732 teaches the use of the internet, Col 3 Lines 23-30.

15. Regarding at least claims 18, 19, 31, 57, and 69, Vancura '732 teaches that the amount of picks changes randomly. Col 14 Lines 39-44, Col 11 Lines 14-39.

16. In regards to claims 1-71, specifically claims 1, 4, 5, 17, 27, 33, 34, 39, 40, 43, 45, 47, 49, 54, 61 and 65, Vancura '732 does not specifically teach a relationship indicator or multiple relationship indicators. "The Price is Right" featured a game referred to as "Bullseye 1". This game involves a target selection that the player attempts to select. If the player is incorrect the player is notified if they are high or low.

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It would be obvious to one of ordinary skill in the art at the time of the invention to combine the relationship indicator taught by "Bullseye 1" with the primary and secondary/bonus game taught in Vancura 6,988,732. Vancura '732 already teaches the use of "The Price is Right" game, Col 4 Lines 31-34, and "Bullseye 1" is one of many "The Price is Right" games that would be acceptable for combination. 'Bullseye 1' notifies a player of the relationship via audio command; however, Vancura '732 teaches that both audio, video, or combination thereof are acceptable means of output, Col 11 Lines 50-55, and therefore the combination of Vancura '732 and "Bullseye 1" would teach the relationship indicator on the display device.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner

### ***Response to Arguments***

17. Applicant's arguments with respect to claims 1-71 have been considered but are moot in view of the amendments and new ground(s) of rejection.

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***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Weber whose telephone number is 571-272-3064. The examiner can normally be reached on Monday - Friday 7am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSW

*Ronald Benson*  
Primary Examiner  
1/20/07